

REMARKS

Entry of this Amendment is proper under 37 C.F.R. § 1.116 because the Amendment places the application in condition for allowance for the reasons discussed herein; does not raise any new issue requiring further search and/or consideration, because the amendments amplify issues previously discussed throughout prosecution; does not present any additional claims; and places the application in better form for an appeal should an appeal be necessary. The Amendment is necessary and was not earlier presented because it is made in response to arguments raised in the final rejection. Entry of the Amendment, reexamination and further and favorable consideration of the subject application in light of the following remarks, pursuant to and consistent with 37 C.F.R. § 1.116, are thus respectfully requested.

As correctly stated in the Official Action, Claims 10, 11, 13-24, and 27-35 are pending in the present application. Claims 20-24, 27 stand withdrawn from consideration. Claims 10, 11, 13-19, and 28-35 stand rejected.

By the present amendment, non-elected claims 20-24 and 27 have been canceled, without prejudice to or disclaimer of the subject matter contained therein. Claims 10, 11, 16, 32, and 33 have also been canceled, without prejudice to or disclaimer of the subject matter contained therein. Applicants expressly reserve the right to file a continuation or divisional application on any subject matter canceled by the present amendment. Claims 13-15, 17, and 18 have been amended to delete a recitation or to correct dependency. New dependent claims 36-41 have been added to further define the cysteine protease of the composition of Claim 13. These new claims are similarly worded to Claims 2 and 7-11 of U.S. Patent No. 6,274,364, the parent application of the instant application. No new matter has been added.

Interview Summary

Applicants gratefully acknowledge the courtesy shown by Examiner Weber to Applicants' undersigned representative during a telephone conference on December 2,

2003. During this telephone conference, Applicants' undersigned representative discussed the recitation of "fragment" in the currently pending claims. Applicants' undersigned representative noted that Applicants' position is that, even without the recitation of "fragment" in the claims, the scope of the claims covers any isolated, substantially pure cathepsin L type cysteine protease present in healthy stratum corneum that falls within the molecular range recited in the claims, *i.e.*, currently 25-30 kDa. The Examiner agreed and indicated his willingness to state this in the Reasons for Allowance. The Examiner indicated that the cancellation of Claims 10 and 11 and the deletion of the recitation of "fragment" in any other pending claims should overcome all outstanding rejections.

Rejections Under the Judicially Created Doctrine of Obviousness-Type Double Patenting

Claims 10 and 11 stand rejected under the judicially created doctrine of obviousness-type double patenting. Without conceding to the merits of this rejection and in accordance with Applicants' position stated above in the Interview Summary, and solely in an effort to expedite prosecution, Claims 10 and 11 have been canceled by the present amendment, thereby mooting this rejection. Accordingly, withdrawal of this rejection is respectfully requested.

Rejections Under 35 U.S.C. § 112, First Paragraph

Claims 10, 11, 13-19, and 28-35 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly lacking written description. The Examiner argues that the specification does not support isolated fragments of a cysteine protease. Claims 10, 11, 16, 32, and 33 have been canceled by the present amendment, thereby mooting this rejection as it applies to these claims. Without conceding to the merits of this rejection and in accordance with Applicants' position stated above in the Interview Summary, and solely in an effort to expedite prosecution, Claims 13-15, 17-19, 28-31, 34, and 35, as amended, no longer recite "fragments." Accordingly, withdrawal of this rejection is respectfully requested.

Claims 10, 11, 13-19, and 28-35 stand rejected under 35 U.S.C. § 112, first paragraph, as purportedly lacking enablement. The Examiner argues that the specification is not enabling for fragments of cysteine protease because proteolysis is unpredictable. Claims 10, 11, 16, 32, and 33 have been canceled by the present amendment, thereby mooting this rejection as it applies to these claims. Without conceding to the merits of this rejection and in accordance with Applicants' position stated above in the Interview Summary, and solely in an effort to expedite prosecution, Claims 13-15, 17-19, 28-31, 34, and 35 no longer recite "fragments." Accordingly, withdrawal of this rejection is respectfully requested.

Claims 16, 18 and 19 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly not enabling for any and all activity enhancers. Without conceding to the merits of this rejection, and solely in an effort to expedite prosecution, Claim 16 has been canceled by the present amendment, thereby mooting this rejection as it applies to this claim. By the present amendment, Claims 18 and 19 now depend, either directly or indirectly from Claim 17. Accordingly, withdrawal of this rejection is respectfully requested.

Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 10, 11, 13-19, and 28-35 stand rejected under 35 U.S.C. § 112, second paragraph. The Examiner asserts that the range of the apparent molecular weight is vague and indefinite because no method for determining the molecular weight is recited in the claims. By the present amendment, Claims 10, 11, 16, 32, and 33 have been canceled, thereby mooting this rejection as it applies to these claims. Without conceding to the merits of this rejection, and solely in an effort to expedite prosecution, Claims 13-15, 17-19, 28-31, 34, and 35 have been amended to recite an apparent molecular weight of 25-30 kD and to no longer recite "fragments." This molecular weight is the same as that recited in the claims of U.S. Patent No. 6,273,364, the parent application of the present application, in accordance with the Examiner's comments at the bottom of page 6 of the Official Action. Accordingly, withdrawal of this rejection is respectfully requested.

Conclusions

From the foregoing, further and favorable consideration of the subject application on the merits is respectfully requested and such action is earnestly solicited.

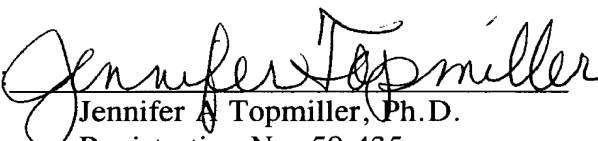
If there are any questions concerning this amendment, or the application in general, the Examiner is respectfully requested to telephone Applicant's undersigned representative so that prosecution may be expedited.

Respectfully submitted,

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